

Serial No. 10/070,084
Docket No. PU3517USw
Reply to Office Action of March 30, 2006

Remarks

Applicants note with appreciation the courtesy of an interview extended by the Examiner to Applicants' attorney. Applicants also note with appreciation the allowance of Claims 2-3, 5, 9, 18-20, 23, 25, 34-36, 40, 45-47, 55, and 58-62. Claims 2-7, 9-11, 13, 18-20, 23, 25, 26, 28, 34-36, 40, 43-49, 54-56, and 58-62 are pending. Claims 12, 14, 29, 31, 32, 33, 37, 50 and 51 have been canceled from the present application without prejudice to the re-filing of the claims in a continuation application. Claims 63-72 have been added. Support for new claims 63-66 is provided in original claim 30. Support for new claims 67-72 is provided in original claims 34-36. Claims 6, 10 and 13 are currently amended. No new matter is presented by way of these amendments.

Claims 28, 29, 48, 49, 50 and 51 stand rejected under 35 USC 112, first paragraph. Claims 29, 50 and 51 are canceled. Accordingly, the rejection as to these claims is moot. The Examiner contends that "the scope of the claims is not adequately enabled solely based on the activity related to HIV reverse transcriptase inhibitory activity provided in the specification."

Applicants respectfully disagree with this rejection. As provided to the Examiner during the interview, the specification at page 391, Example 275 presents data demonstrating the activity of the compounds of the present invention against viral replication in cells. As stated on page 295, under heading "B. Analysis" an analysis is given regarding the measurements of antiviral activity of the compounds of the present invention. Applicants respectfully request the withdrawal of this rejection.

Claims 6, 10, 12 and 43 stand rejected under 35 USC 112, first paragraph. Claims 6 and 10 have been amended. Claim 12 has been canceled and Claim 43 is dependent from amended Claim 6. Accordingly, this rejection is now moot. Applicants respectfully request withdrawal of this rejection.

Claims 6, 10, 29, 50 and 51 stand rejected under 35 USC 112, second paragraph. Claims 6 and 10 have been amended. Claims 29, 50 and 51 have been canceled. Accordingly, this rejection is now moot. Applicants respectfully request withdrawal of this rejection.

Claims 4, 6, 10, 11, 14, 54 and 57 stand rejected under 35 USC 103(a) as being unpatentable over Wyatt et al. (J. Med. Chem. 1995). The Office Action states that "it is well

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established that compounds that differ by a $-\text{CH}_2$ group are structural homologs.” The Applicants respectfully disagree with this statement. In support for this position, the Examiner cites *In re Hass*, 60 USPQ 544 (CCPA 1944) and *In re Henze*, 85 USPQ 261 (CCPA 1950).

It is respectfully submitted that in both *In re Hass* and *In re Henze* the prior art cited and the claimed compounds at issue both contained alkyl chains of varying length. In each case, the difference between the prior art and the claimed compounds was a methyl group on an alkyl. In other words, the issue was the addition of an alkyl on an existing alkyl chain. Nowhere does either case discuss the modification of an unsubstituted aryl to a substituted aryl.

Here in the present application, the Examiner asserts that it would have been obvious to one of skill in the art to modify an unsubstituted aryl to an aryl substituted with an alkyl. Applicants contend that an aryl substituted with alkyl and unsubstituted aryl are not homologues.

Furthermore, Wyatt actually teaches away from Applicants’ claimed invention. Wyatt discloses compounds that were inactive against mutant viruses and rapidly induced resistant virus during passage of HIV-1. As stated on page 1663 under the heading “Conclusions”, Wyatt states that the work on the disclosed series of benzophenone derivatives was terminated.

Accordingly, one skilled in the art would not be motivated by Wyatt to modify the benzophenone derivatives taught therein. Wyatt does not teach or suggest any modifications to such benzophenone derivatives. Wyatt must be considered in toto, and when considered properly, Wyatt teaches away from Applicants’ claimed invention. Further, there is no reasonable expectation of success based on Wyatt for the reasons stated above.

Applicants respectfully request reconsideration and withdrawal of this rejection.

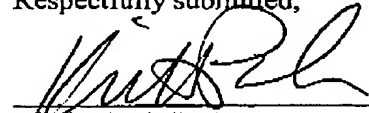
Claim 12 stands rejected under 35 USC 103(a) as being unpatentable over Tomiyama et al. Claim 12 is canceled. Accordingly, this rejection is moot.

In view of the amendments and foregoing discussion, it is respectfully submitted that the present application is in condition for allowance. An early consideration and notice of allowance are earnestly solicited.

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The Commissioner is hereby authorized to charge any fees required or credit any overpayment to Deposit Account No. 07-1392.

Respectfully submitted,

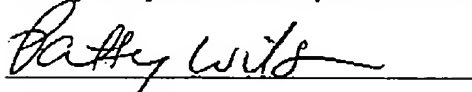


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Date: July 28, 2006

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I hereby certify that this correspondence is being facsimile transmitted to (571) 273-8300 on July 28, 2006.



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